(b) any fee payable under any law for the time being in force relating to the registration of documents or court fee.

(2) The Government may, by notification, exempt any class of societies from -

(a) land revenue;
(b) taxes on agricultural income;
(c) taxes on sale or purchase of goods; and
(d) taxes on professions, trades, callings and employments.

Deduction from salary to meet society's claim in certain cases

54. (1) Notwithstanding anything contained in any law for the time being in force, a member of a society may execute an agreement in favour of the society providing that his employer shall be competent to deduct from the salary or wages payable to him by the employer, such amount as may be specified in the agreement and to pay the amount so deducted to the society in satisfaction of any debt or other demand owing by the member to the society.

(2) On the execution of such agreement, the employer shall, if so required by the society by a requisition in writing and so long the society does not intimate that the whole of such debt or demand has been paid, made the deduction in accordance with the agreement and pay the amount so deducted to the society within seven days of such deduction. Such payment shall be valid discharge of the employer of his liability to pay the amount so deducted and paid to the society.

(3) If after the receipt of a requisition made under sub-section (2), the employer at any time fails to deduct the amount specified in the requisition from the salary or wages payable to the member concerned or makes default in remitting to the society the amount so deducted, the society shall be entitled to recover any such amount from the employer as arrears of land revenue.

(4) Nothing contained in this section shall apply to establishment under the Railway administration operating any railway as defined in clause (20) of article 366 of the Constitution.

State aid to societies

55. Notwithstanding anything contained in any law for the time being in force, the Government may -

(a) subscribe to the share capital of a society;
(b) give loans or make advances to societies;
(c) guarantee the repayment of principal and payment of interest on debentures or bonds issued by a society;
(d) guarantee the repayment of share capital of a society and dividends thereon at such rates as may be specified by the Government;
(e) guatentee the repayment of principal and payment of interest on loans and advances to a society; and
(f) give financial assistance in any other form, including subsidies, to any society.

Registrar's power to determine terms of employment in societies

56. (1) The Registrar may from time to time frame rules governing the terms of employment and working conditions of officers and employees in a society including the State Co-operative Bank or a class of societies and the society or the class of societies to which such terms of employement and of working conditions are applicable shall comply with the order that may be issued by the Registrar in this behalf.

Provided that while prescribing the remuneration of the officers and other employees of the State Co-operative Bank, the Registrar shall have due regard to the salary structure of the employees of the Government and the local authorities of comparable level and status in the State.

(2) Where a dispute regarding terms of employment, working conditions and disciplinary action taken by a society, arises between a society and its employees, the Registrar or any officer appointed by him shall decide the dispute and his decision shall be binding on the society and its employees.

Chapter VI

Properties and funds of societies

Funds not to be divided by way of profit

57. No part of the funds of a society shall be divided by way of bonus or dividend or otherwise among its members:

Provided that after at least one-fourth of the net profit in the year has been transferred to the reserve fund, payments from the remainder of such profits and from any profits of past years, if any, available may be made to the members by way of dividend or bonus to such extent and subject to such conditions as may be prescribed by the rules or bye-laws.

Contribution to charitable purpose

58. A society may, with the sanction of the Registrar and after one-fourth of the net profits of the year has been transferred to the reserve fund,

contribute an amount not exceeding five per cent of the remaining net profits to any purpose connected with the development of co-operative movement or charitable purpose as defined in section 20 of the charitable Endowments Act, 1890.

6 *of* 1890

Contribution to Co-operative Education Fund

59. A society shall, out of its net profits in any year, contribute such portion of the profits not exceeding five per cent as may be prescribed to the Co-operative Education Fund constituted under the rules.

Investment of funds

60. (1) A society may invest or deposit its fund -

(a) in the post office savings bank;

(b) in any of the securities specified in section 20 of the Indian Trusts Act, 1882;

2 *of* 1882

(c) in the shares or debentures or securities of any other society; or

(d) with the financing bank; or

(e) with any society or bank carrying on the business of banking as may be approved by the Registrar; or

(f) in the bonds issued by itself; or

(g) in any other mode permitted by the rules or by the Registrar.

Restrictions on loans

61. (1) A society shall not make a loan to any person other than a member:

Provided that with the general or special sanction of the Registrar a society may make loan to another society.

Provided further that a society may make such loans as may be specified in the bye-laws to any of its paid employees.

(2) Notwithstanding anything contained in sub-section (1), a society may make a loan to depositor on the security of his deposit.

Restrictions on borrowings

62. A society shall receive deposits and loans only to such extent and under such conditions as may be prescribed or as may be specified in the bye-laws.

Restrictions on other transactions with non-members

63. Save as provided in sections 61 and 62 the transactions of a society with any person other than a member shall be subject to such prohibitions or restrictions, as may be prescribed.

Chapter VII
Audit, Inquiry, Inspection and Surcharge

Audit

64. (1) The Registrar shall audit or cause to be audited by a person authorised by him by general or special order in writing in this behalf, the accounts of every society at least once in each co-operative year.

(2) The audit under sub-section (1) shall include an examination of overdue debt, if any, the verification of the cash balance and securities, and a valuation of the assets and liabilities of the society.

(3) The person auditing the accounts of a society shall have free access to the books, accounts, papers, vouchers, stock and other property of such society and shall be allowed to verify its cash balance and securities.

(4) The directros, managers, administrators and other officers of the society shall furnish to the person auditing the accounts of a society all such information as to the society's transactions and working as such person may require.

(5) The Registrar or the person authorised by him under sub-section (1) to audit the accounts of a society shall have power where necessary -

(a) to summon at the time of his audit any officer, agent, servant or member of the society, past or present, who he has reason to believe can give valuable information in regard to transactions of the society or the management of its affairs; and

(b) to require the production of any book or domcument relating to the affairs of, or any cash securities belonging to, the society by any officer, agent, servant, or member in possession of such books, documents, cash or securities and in the event of serious irregularities discovered during audit, to take them into custody.

(6) If at the time of audit the accounts of a society are not complete, the Registrar or the person authorised by him under sub-section (1) to audit may cause the accounts to be written up at the expense of the society.

(7) Audit fee, if any, due from any society shall be recoverable in the same manner as is provided in section 85.

Inspection of societies

65. The Registrar, or any person authorised by general or special order in this behalf by him, may inspect a society. For the purpose of inspection, the Registrar or the person so authorised by him shall at all times have access to all books, accounts, papers, vouchers, securities, stock and other property of the society and may, in the event of serious irregularities discovered during inspection, take them into custody and shall have power to verify the cash balance of the

society and to call a committee meeting or a general meeting as he may deem necessaary in the circumstances. Every officer or a member of the society shall furnish such information with regard to the working of the society as the Registrar or the person making such inspection may require.

Inquiry by Registrar

66. (1) The Registrar may of his own motion or on application of a majority of the members of the committee or of not less than one-third of the members of the society, hold an inquiry or direct a person authorised by him by order in writing in this behalf to hold an inquiry into the constitution, working and financial condition of a society.

(2) The Registrar or the person authorised by him under sub-section (1) shall have the following powers, namely :

(a) he shall at all times have, for purpose of examination, free access to the books, accounts, cash and other properties belonging to or in the custody of the society and may summon any person in possession or responsible for the custody of any such books, accounts, documents, securities, cash or other properties to produce the same, at any place specified by him. ;

(b) he may, notwithstanding any rule or bye-laws specifying the period of notice for a general meeting of the society, require the officers of the society to call a general meeting at such time and place at the headquarters of the society to consider such matters, as may be directed by him; and where the officers of the society refuse or fail to call such a meeting he shall have power to call it himself;

(c) he may summn any person who is reasonably believed by him to have any knowledge of the affairs of the society to appear before him at any place at the headquarters of the society or any branch thereof and may examine such person on oath.

(3) Any meeting called under clause (b) of sub-section (2) shall have all the powers of a general meeting called under the bye-laws of the society and its proceedings shall be regulated by such bye-laws.

(4) The Registrar shall communicate a brief summary of the report of the inquiry to the society, the State Co-operative Bank or a federal society to which the society is affiliated, and to the person or authority, if any, at whose instance the inquiry is made.

Inspection of bo ks of Indebted Societies

67. (1) The Registrar shall, on the application of a creditor of a society, inspect or direct some person authorised by him by order in writing in this behalf to inspect the books of the society:

Provided that no such inspection shall be made unless the applicant

(a) satisfies the Registrar that the debt is a sum then due, and that he was demanded payment thereof and has not received satisfaction within a reasonable time; and

(b) deposits with the Registrar such sum as security for the cost of proposed inspection as the Registrar may require.

(2) The Registrar shall communicate the result of any such inspection to the creditor.

Costs of inquiry

68. Where an inquiry is held under section 66, or an inspection is made under section 67, the Registrar may apportion the costs, or such of the costs, as he may think fit, between the society, the members or creditors demanding an inquiry or inspection, and the; officers or former officers and the members or past members of the society as the case may be:

Provided, however, that -

(a) no order of the apportionment of the costs, shall be made under this section unless the society or the person liable to pay the costs thereunder has had a reasonable opportunity of being heard; and

(b) the Registrar shall state in writing the manner in which the costs are apportioned.

Recovery of costs

69. Any sum awarded by way of costs under section 68 may be recovered, on application to a magistrate having jurisdiction in the place where the person from whom the money is claimable, actually and voluntarily resides or carries on business, and such magistrate shall recover the same as if it were a fine imposed by himself.

Surcharge

70. (1) Where in the course of an audit, inquiry, inspection or the winding up of a society, it is found that any person, who is or was entrusted with the organisation or management of such society or who is or has at any time been an officer or an employee of the society, has made any payment contrary to this Act, the rules or the bye-laws or has caused any deficiency in the assets of the society by breach of trust or wilful default or negligence or has misappropriated or fradulently retained any money or other property belonging to such

society, the Registrar may, of his own motion or on the application of the committee, liquidator or any creditor, inquire himself or cause an inquiry to be made by any person authorised by him, by an order in writing in this behalf.

(2) Where an inquiry is made under sub-section (1), the Registrar or the person authorised by him may, after giving the person concerned an opportunity of being heard, make an order, requiring him to repay or restore the money or property or any part thereof, with interest at such rate, or to pay contribution and costs or compensation to such extent, as the Registrar or the person authorised by him may consider just and proper.

Suspension of officer or employee of society

71. (1) Where in the course of an audit under section 64 or an inquiry under section 66 or an inspection under section 65 or section 67, it is brought to the notice of the Registrar that a paid officer or employee of the society has committed or has been otherwise responsible for misappropriation, breach of trust or other offence, in relation to the society, the Registrar may, if he is satisfied that there is prima facie evidence against such paid officer or employee and the suspension of such paid officer or employee is necessary in the interest of the society, direct the committee of the society, pending the investigation and disposal of the matter, to place or cause to be placed such paid officer or employee under suspension from such date and for such period as may be specified by him.

(2) On receipt of a direction from the Registrar under sub-section (1), the committee of the registered society shall, notwithstanding any provision to the contrary in the bye-laws, place or cause to be placed such paid officer or employee under suspension forthwith.

(3) The Registrar may direct the committee to extend from time to time, the period of suspension and the paid officer or employee suspended shall not be reinstated except with the previous sanction of the Registrar.

Chapter VIII

Settlement of Disputes

Disputes which may be referred to arbitration

72. (1) Notwithstanding anything contained in any law for the time being in force, if any dispute touching the constitution, management or the business of a society arises :-

(a) among members, past members and persons claiming through members, past members and deceased members, or

(b) between a member, past member or person claiming through a member, past member or deceased member and the soeciety, its committee or any officer, agent or employee of the society past or present, or

(c) between the society or its committee and any past committee, any officer, agent or employee, or any past officer, past agent or past employee or the nominee, heirs or legal representatives of any deceased officer, deceased agent, or deceased employee of the society, or

(d) between the society and any other society, between a society and liquidator of another society or between the liquidator of one society and the liquidator of another society, or

(e) between the society and a person other than member of the society who has been granted a loan by the society or with whom the society has or had business transactions or any person claiming through such a person; or

(f) between the society and a creditor of the society.

such disputes shall be referred to the Registrar for decision and no court shall have jurisdiction to entertain any suit or other proceedings in respect of such dispute.

(2) For the purposes of sub-section (1), the following shall be deemed to be disputes touching the constitution, management or the business of a society, namely :-

(a) a claim by the society for any debt or demand due to it from a member or the nominee, heirs or legal representatives of a deceased member, whether such debt or demand be admitted or not;

(b) a claim by a surety against the principal debtor where the society has recovered from the surety any amount in respect of any debt or demand due to it from the principal debtor as a result of the default of the principal debtor whether such debt or demand is admitted or not;

(c) any dispute arising in connection with the election of any officer of a society;

(d) a claim by a society against a member, past member or the nominee, heir or legal representative of a deceased member for delivery of possession to the society of land or other immovable property resumed by it

for breach of the conditions of assignment or allotment of such land or other immovable property.

(3) If any question arises whether a dispute referred to the Registrar under this section is or is not a dispute touching the constitution, management or the business of a society, the decision thereon of the Registrar shall be final and shall not be called in question in any court.

(4)(a) Notwithstanding anything contained in any law for the time being in force providing for any period of limitation for suits and other proceedings but subject to the specific provisions made in this Act, the period of limitation within which the dispute shall be referred to the Registrar under sub-section (1) shall -

(i) when the dispute relates to the recovery of any sum including interest thereon due to a society by a member thereof, be computed from the date on which such member dies or ceases to be a member of the society;

(ii) save as otherwise provided in sub-clause (iii), when the dispute relates to any act or omission on the part of any of the parties referred to in clause (b) or clause (c) of sub-section (1), be six years from the date on which the act or omission with reference to which the dispute arose, took place;

(iii) when the dispute relates to a society which has been ordered to be wound up under section 75 or in respect of which an administrator has been appointed under section 39 be six years from the date of the order issued under section 75 or section 39 as the case may be;

(iv) when the dispute is in respect of an election of an officer of a society other than a society referred to in sub-section (1) of section 34, be one month from the date of the declaration of the result of the election.

(b) The period of limitation in the case of any other dispute except those mentioned in the foregoing clause which are required to be referred to the Registrar under the last preceding section shall be regulated by the provisions of the law for the time being in force providing for any period of limitation for suits and other proceedings, as if the dispute was a suit and the Registrar, a civil court.

(c) Notwithstanding anything contained in clauses (a) and (b) the Registrar may admit a dispute after the expiry of the period of limitation, if the applicant satisfies the Registrar that he had sufficient cause for not referring the dispute within such period and the dispute so admitted shall be a dispute which shall not be barred on the ground that the period of limitation has expired.

Reference of dispute to arbitration

73. (1) The Registrar may, on receipt of the reference of dispute under section 72 -

(a) decide the dispute himself, or

(b) transfer it for disposal to any person who has been invested by Government with powers of the Registrar in that behalf, or

(c) refer it for disposal to one or more arbitrators to be appointed by the Registrar.

(2) Where the reference relates to any dispute involving immovable property the Registrar or such person or arbitrator, may order that any person be joined as a party who has acquired any interest in such property subsequent to the acquisition of interest therein by a party to the reference and any decision that may be passed on the reference by the Registrar. or the person or the arbitrator aforesaid, shall be binding on the party so joined as if he were an original party to the reference.

(3) The Registrar may withdraw any reference transferred under clause (b) of sub-secton (1) or referred under clause (c) of that sub-section and decide it himself or refer the same to another arbitrator or such another person for decision.

(4) The Registrar or such person or arbitrator to whom a dispute is referred for decision under this section may, pending the decision of the dispute, make such interlocutory orders as he may deem necessary in the interest of justice.

(5) The Registrar or such person shall decide the dispute or the arbitrator shall pass an award, in accordance with the provisions of the Act and the rules and the bye-laws.

Power of State Co-operative Bank to proceed

74. (1) If a society is unable to pay its debts to the State Co-operative Bank by reason of its members committing default in the payment of the moneys due by them, the State Co-operative Bank may direct the committee of such a society to proceed against such members under section 72 and if the committee fails to do so within a period of ninety days from the date of receipt of such direction, the State Co-operative Bank itself may proceed against such members in which case the provisions of this Act, the rules or the bye-laws shall apply as if all reference to the society or its committee in the said provisions were references to the State Co-operative Bank.

(2) Where the State Co-operative Bank has obtained a decision

State Co-operative Bank may proceed to recover such moneys firstly from the assets of the society and secondly from the members to the extent of their debts due to the society.

Chapter IX

Winding up of Societies

Winding up of Societies

75. (1) If the Registrar, after an inquiry has been held under section 66 or an inspection has been made under section 67, or on receipt of an application made by not less than three-fourths of the membersof a society, is of opinion that the society ought to be wound up, he may in consultation with the State Co-operative Bank issue an order directing it to be wound up.

(2) The Registrar, may, of his own motion, make an order directing the winding up of a society -

(a) where it is a condition of the registration of the society that the society shall consist of at least ten members and the number of members has become less than ten, or

(b) where the society has not commenced working within six-months of its registration or such further time as may be granted by the Registrar or has ceased to function in accordance with co-operative principles.

(3) The Registrar may cancel an order for the winding up of society, at any time, in any case, where, in his opinion, the society should continue to exist.

(4) A copy of such order shall be communicated by registered post to the society and to the State Co-operative Bank of which the society is a member

Liquidator

76. (1) Where the Registrar has made an order under section 75 for the winding up of a society, the Registrar may appoint a liquidator for the purpose and fix his remuneration and may remove such person and appoint another in his place.

Provided that it shall not be necessary to appoint any liquidator for winding up of a society which has not commenced working, or has share capital and members' deposits not ecxceeding five hundred rupees.

(2) A liquidator shall, on appointment, take into his custody or under his control all the property, effects and actionable claims to which the society is or appears to be entitled and all books, records and other documents pertaining to the business of the society and shall take such steps as he may deem necessary or expedient, to prevent loss or deterioration of, or damage, to, such property, effects and claims. He may carry on the business of the society so far as may be necessary with the previous approval of the Registrar.

(3) Where an appeal is preferred under section 98, an order of winding up of a society made under section 75 shall not operate thereafter until the order is confirmed in appeal:

Provided that the liquidator shall continue to have custody or control of the property, effects and actionable claims mentioned in sub-section (2) and have authority to take the steps referred to in that sub-section.

(4) Where an order of winding up of a society is set aside in appeal, the property, effects and actionable claims of the society shall revest in the society

Powers of Liquidator

77. (1) Subject to any rules made in this behalf, the whole of the assets of a society, in respect of which an order for winding up has been made, shall vest in the liquidator appointed under section 76 from the date on which the order takes effect and the liquidator shall have power to realise such assets by sale or otherwise.

(2) Such liquidator shall also have power, subject to the control of the Registrar -

(a) to institute and defend suits and other legal proceedings on behalf of the society in the name of his office;

(b) to determine from time to time the contribution (including debts due and costs of liquidation) to be made or remaining to be made by the members or past members or by the estates or nominees, heirs or legal representatives of deceased members by or any officers or former officers, to the assets of the society;

(c) to investigate all claims against the society and subject to the provisions of this Act, to decide questions of priority arising between claimants;

(d) to pay claims against the society including interest up to the date of winding up according to their respective priorities, if any, in full or rateably, as the asets of the society may permit; the surplus, if any, remaining after payment of the claims being applied in payment of interest from the date of such order of winding up at a rate fixed by him but not exceeding the contract rate in any case;

(e) to determine by what persons and in what proportions the cost of the liquidation are to be borne;

(f) to determine whether any person is a member, past member or nominee of deceased member;

(g) to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for winding up the affairs of the society;

(h) to carry on the business of the society so far as may be necessary for the beneficial winding up of the same;

(i) to make any compromise or arrangement with creditors or persons claiming to be creditors or having or alleging to have any claim, presently or future, whereby the society may be rendered liable;

(j) to make any compromise or arrangement with any person between whom and the society there exists any dispute and to refer any such dispute to arbitration;

(k) after consulting the members of the society, to dispose of the surplus if any, remaining after paying the claims against the society in the manner prescribed; and

(l) to compromise all calls of liabilities to calls and debts and liabilities capable of resulting in debts, and all claims, present or furture, certain or contingent, subsisting or supposed to subsist between the society and a contributory or alleged contributory or other debtor or person and all questions in any way relating to or affecting the assets or the winding up of the society on such terms as may be agreed and take any security for the discharge of any such call, liability, debt for claim and give a complete discharge in respect thereof.

(3) When the affairs of a society have been wound up, the liquidator shall make a report to the Registrar and deposit the records of the society in such place as the Registrar may direct.

Priority of contributions assessed by liquidator

78. Notwithstanding anything contained in any law relating to insolvency as may for the time being in force, the contribution assessed by a liquidator shall rank in order of priority next to debt due to the Government or to any local authority in solvency proceedings.

Powers of Registrar to cancel registration of a co-operative society

79. (1) The Registrar may, after considering the report of the liquidator made to him under sub-section (3) of section 77 order the registration of the society to be cancelled.

(2) An order passed under sub-section (1) shall be communicated by registered post to the president of the society and to the federal society, if any, and to the State Co-operative Bank, of which the society was a member.

Chapter X

Execution of awards, decrees, orders and decisions

Enforcement of charge

80. Notwithstanding anything contained in Chapter VIII or any other law for the time being in force, but without prejudice to any other mode of recovery provided in this Act, the Registrar or any person subordinate to him empowered by the Registrar in this behalf may, on the application of a society, make an order directing the payment of any debt or outstanding demand due to the society by any member or past or deceased member, by sale of the property or any interest therein which is subject to a charge under section 42:

Provided that no order shall be made under this section unless the member, past member or the nominee, him or legal representative of the deceased member, has been served with a notice in the manner prescribed and has failed to pay the debt or outstanding demand within the time specified in the notice which shall not be less than thirty days.

Execution of orders, etc.

81. Every decision, award or order duly passed by the Registrar or arbitrator under section 32, section 33, section 70, section 73, section 80 or section 98 shall, if not carried out -

(a) where the decision, award or order provides for the recovery of money, be executed according to the law for the time being in force relating to the recovery of the land revenues:

Provided that an application for the recovery of any sum in the manner aforesaid accompanied by a certificate signed by the Registrar or any person subordinate to him and empowered by the Registrar in this behalf shall be made to the competent revenue authorty that may be prescribed within twelve years from the date of the order; and

(b) in any other case be executed by the Registrar or any person subordinate to him and empowered by the Registrar in this behalf by attachment and sale or sale without attachment of any property of the person or society against whom the order, decision or award has been obtained or passed.

Execution of orders of liquidator

82. The orders of the liquidator under section 77 shall be executed in accordance with the Act and the rules for the time being in force for the recovery of arrears of land revenue.

Attachment before award

83. Where the Registrar is satisfied that a party to any reference made him under section 72 with intent to defeat or delay the execution of any decision that may be passed thereon is about to -

(a) dispose of the whole or any part of the property; or

(b) remove the whole or any part of the property from the local limits of the jurisdiction of the Registrar, the Registrar may, unless adequate security is furnished, direct attachment of the said property or such part thereof as he thinks necessary. Such attachment shall have the same effect as if made by a competent civil court.

Provided that the powers of the Registrar under this section shall not be delegated to any officer below such rank as may be prescribed.

Provided further that immovable property shall not be sold in execution of a decree unless such property has been previously attached.

Provided further that where the decree has been obtained on the basis of a mortgage of such property, it shall not be necessary to attach it.

Registrar or person empowered by him to be civil court for certain purposes

84. The Registrar or any person empowered by him in this behalf shall be deemed, when exercising any powers under this Act for the recovery of any amount by attachment and sale or by sale without attachment of any property, or when passing any orders on any application made to him for such recovery to be a civil court for the purposes of any law relating to limitation.

Recovery of sums due to Government

85. (1) All sums due from a society, or from an officer or member or past member of a society as such, to Government, including any costs awarded to Government under any provision of this Act, may, on a certificate issued by the Registrar in this behalf, be recovered in the same manner as arrears of land revenue.

(2) Sums due from a society to Government and recoverable under sub-section (1), may be recovered, firstly from the property of the society; secondly, in the case of a society the liability of the members of which is limited, from the members, past members or the estates of deceased members, subject to the limit of their liability and thirdly, in the case of other societies, from the members, past members or the estates of the deceased members:

Provided that the liability of past members and the estates of deceased members shall in all cases be subject to the provisions of section 29.

Chapter XI

State Co-operative Bank

Applicability of Chapter

86. Notwithstanding anything contained to the contrary in this Act or rules, the provisions of this Chapter shall apply to the State-Co-operative Bank that may be registered in the State under this Act.

Registration of State Co-operative Bank

87. Notwithstanding anything contained in this Act, a society shall not be registered as the State Co-operative Bank unless the application for registration thereof is signed by at least 10 persons of whom one shall be the Government and the rest shall consist of not less than 5 societies.

Business which the State Co-operative Bank may transact

88. It shall be lawful for the State Co-operative Bank to carry on all or any of the following business viz. :-

(1) to do banking business as defined in Clause (b) of section 5 and section 6(i) read with section 56 of the Banking Regulation Act, 1949 or anyother law for the time being in force and in general to carry on and discharge such functions and business as are usually undertaken by banks or bankers;

Act 10 of 1949

(2) to serve as an apex bank for the co-operative societies and to provide all types of financial accommodation, including short, medium and long-term loans for all kinds of economic activities, including agriculture and allied activities, industry, trade and commerce, to co-operative societies as well as to other persons including firms, companies or other corporate bodies;

(3) to act as an agent of the Reserve Bank in the matter of operating currency chests on such terms and conditions as may be mutually agreed upon; and

(4) to open branches, pay offices or regional offices in any part of the State of Sikkim or outside Sikkim with the previous sanction of the Registrar.

Government share Capital Committee

89. The Government shall contribute not less than 51 per cent of the total issued capital of the State Co-operative Bank.

90. The Committee of the State Co-operative Bank shall consist of 9 members of whom 3 shall be nominated by the Government, 3 shall be prerestentaties of societies, 2 shall be representatives of members other than societies to be elected or nominated as per the by-laws of the Bank , and one Managing Director to be appointed by the Government in consultation with the Reserve Bank.

Provided that the initial committee shall be entirely nominated by the Government for a period of 3 years or such other extended period as may be deeided by the Government.

Taking over the business of the state Bank of Sikkim

91. The State Co-operative Bank may at any time, acquire in whole or in part the business of the State Bank of Sikkim, established under the State Bank of Sikkim Proclamation, 1968, as may be provided by Central Government by law.

Issue of bonds

92. (1) The State Co-operative Bank may, with the prior approval of the Government, and subject to such terms and conditions as the Government may deem fit to impose, borrow money by issue of bonds.

(2) The bonds shall be in the form of promissory note and shall not be repayable before the expiry of five years from the date of issue thereof.

Provided that the committee may repay the amount due under the bonds at any time before the date so fixed, after issue of notice in such manner as the committee may direct in that behalf to the holders of the bonds.

Guarantee by Government of principal of and interest on the bonds

93. (1) The principal of , and interest on, the bonds issued under section 92 shall, subject to such maximum amount as may be fixed by the Government and subject to such conditions as the Government may think fit to impose, carry the guarantee of the Government.

(2) The Government may, subject to the provisions of any Act in that regard, increase the maximum amount of any guarantee given under sub-section (1).

(3) The Government may, after consulting the Committee, —

(a) by notification in the Official Gazette, and

(b) by notice of not less than fourteen days in such of the important news papers in the State and in other States of India, as the Government may select in this behalf, withdraw any guarantee given by them or reduce the maximum amount thereof or modify the conditions, subject to which it was given.

Provided that the withdrawal, reduction or modification of any guarantee under this sub-section, shall not in any way affect the guarantee carried by any bonds issued prior to the date on which such withdrawal, reduction or modification takes effect.

Other Guarantee by Government

94. Where the State Co-opeative Bank or the primary agricultural cridit society has given a long-term loan to a member for the improvement of of any land in excess of the amount of the loan to which such member would be entitled, on the basis of the value of the land as determined in accordance with the principles of valuation approved by the Committee from time to time with the approval of the Retgistrar, the Government may guarantee for a specified period the repayment of the loan to the extent of the excess.

Right of primary agricultural cridit society or the State Coperative Bank to pay prior debts to mortagagor

95. (1) Where a mortagage is executed in favour of a primary agricultural credit society or the State Co-operative Bank for payment of prior debts of the mortgagor, the society or the bank may, notwithstanding anything in any law for the time being in force relating to the transfer of properties, by notice in writing, require any person to whom any such debt is due, to receive payment of such debt or part thereof from the bank at its registered office within such period as may be specified in the notice.

(2) Where any such person fails to receive such notice or such payment, such debt or part thereof, as the case may be, shall cease to carry interest from the expiration of the period specified in the notice:

Provided that where there is a dispute as regards the amount of any such debt, the person to whom such debt is due shall be bound to receive payment of the amount offered by the primary agricultural credit society or the State Co-operative Bank, as the case may, be towards the debt but such receipt shall not prejudice the right, if any, of such person to recover the balance claimed by him.

Power of the State Co-operative Bank to Supervise

96. The State Co-operative Bank may maintain general supervision over or inspect societies affiliated to or financed by it and take up the management of the societies on such terms and conditions as may be approved by the Registrar.

Allotment of shares and voting rights of the members of the state Co-operative Bank

96. A (i) Subject to the provisions of Section 89 allotment of shares to members of the State Co-operative Bank shall be governed by the provisions of its by-laws as approved by the Registrar.

(2) The voting rights of members shall be proportionate to the shares held by each member.

Chapter XII

Insured Co-operative Banks

Insured co-operative banks

97. Notwithstanding anything contained in this Act, in the case of an insured co-operative bank -

(1) an order for the winding up, or an order sanctioning a scheme of compromise or arrangement or of amalgamation or reconstruction (including division or reorganisation), of the bank may be made only with the previous sanction in writing of the Reserve Bank.

(2) an order for the winding up of the bank shall be made by the Registrar if so required by the Reserve Bank in the circumstances referred to in section 13D of the Deposit Insurance Corporation Act, 1961;

47 *of* 1961

(3) if so required by the Reserve Bank in the public interest or for preventing the affairs of the bank being conducted in a manner detrimental to the interests of the depositors or for securing the proper management of the bank, an order shall be made for the supersession (removal) of the committee or other managing body (by whatever name called) of the bank and the appointment of an administrator therefor for such period or periods, not exceeding five years in the aggregate, as may from time to time be specified by the Reserve Bank and the administrator so appointed shall, after the expiry of his term of office, continue in office untill the day immediately preceding the date of the first meeting of the new committee;

(4) no appeal, revision or review shall lie or be permissible against an order such as is referred to in clauses (1), (2) or (3) made with the previous sanction in writing or on the requisition of the Reserve Bank and such order or sanction shall not be liable to be called in question in any manner;

(5) the liquidator of the insured co-operative bank or transferee bank, as the case may be, shall be under an obligation to repay to the Deposit Insurance Corporation in the circumstances, to the extent and in the manner referred to in section 21 of that Act.

Explanation

(i) For the purposes of this section "a co-operative bank" means a bank as has been defined in the Deposit Insurance Corporation Act, 1961.

47 *of* 1961

(ii) "Insured co-operative bank" means a society which is an insured bank under the provisions of the Deposit Insurance Corporation Act, 1961.

47 *of* 1961

(iii) "Transferee bank" in relation to an insured co-operative bank means a co-operative bank —

(a) with which such insured co-operative bank is amalgamated, or

(b) to which the assets and liabilities of such insured co-operative bank are transferred, or

(c) into which such insured co-operative bank is divided or converted under the provisions of this Act.

Chapter XIII

Appeals and Revision

Appeals

98. An appeal shall lie under this section against —

(a) an order of the Registrar made under sub-section (2) of section 8 refusing to register a society;

(b) an order of the Registrar made under sub-section (4) of section 11 refusing to register an amendment of the bye-laws of a co-operative society;

(c) a decision of a society other than a primary agricultural credit society, refusing to admit any person as a member of the society who is otherwise duly qualified for membership under the bye-laws of that society;

(d) a decision of a society expelling any of its members;

(e) an order of the Registrar removing the committee of a society made under section 39;

(f) an order made by the Registrar under section 68 apportioning the cost of an enquiry held under section 66 or an inspection made under section 67;

(g) any order of surcharge under section 70;

(h) any decision or award made under section 73;

(i) an order made by the Registrar under section 75 directing the winding up of a society;

(j) any order made by the liquidator of a society in exercise of the powers conferred on him by section 77;

(k) any order made under section 83.

(2) (a) An appeal against any decision or order under sub-section (1), excepting those mentioned in clauses (c) and (d), shall be made to the Government within sixty days from the date of the decision or the order; and

(b) the appeal against any decision of a society mentioned in clauses (c) and (d) of sub-section (1) shall be made to the Registrar within sixty days from the date of such decision.

(3) No appeal shall lie under this section from any decision or order made by the Registrar in appeal.

(4) The Government or the Registrar, to whom an appeal is made under sub-section (2) may call for and examine the record relating to the matter appealed, for the purpose of satisfying itself or himself as to the legality or propriety of any decision or order passed and if in any case it appears to the Government or the Registrar, as the case may be, that any such decision or should be modified, annuled or reversed, the Government or the Registrar, as the case may be, may pass such order thereon as it and he may deem fit.

Revision

99. Subject to the provisions of section 97, the Government may, so or on the application of a party to a reference, call for and examine the record of any proceedings in which no appeal lies to the Government under section 98 for the purpose of satisfying itself as to the legality and propriety of any decision or order passed and if in any case it shall appear to it that any such decision or order should be modified, annuled or revised, it may pass such order theron as it may deem fit.

Interlcutory orders

100. Where an appeal is made under section 98 or where the Government calls for the record of a case under section 99, the appellate authority for the Government as the case may be, may, in order to meet the ends of justice make such interlocutory order, including an order of stay, pending the decision of the appeal or revision as such authority or Government may deem fit.

Chapter XIV

Offences and Penalties

Offences

101. (1) No person, other than a society, shall carry on business under any name or title of which the word "co-operative" or its equivalent in any Indian language, is part , without the sanction of the Government.

(2) Any person carrying on any trade or business in contravention of sub-section (1) shall be punished with a fine which may extend to two hundred rupees and in the case of a continuing offence with a fine of rupees 25 for each day on which the offence is continuing after conviction thereof.

Provided always that nothing in this section shall apply to the use by any person or his successor in interest of any name or title under which he carried on his business with the word "co-operative" or its equivalent in any India language, at the date on which the Sikkim Co-operative Societies Act, 1955 came into operation.

(3) Any member or past member or the nominee, heir or legal representative of a deceased member of a society who contravenes the provisions of section 42 by disposing of any property in respect of which the society is entitled to have a first charge under that section or do any other act to the prejudice of such claim, shall be punishable with fine which may extend to two hundred rupees.

(4) The committee of a society or an officer or member thereof wilfully making a false return or furnishing false information, or any person wilfully or without any reasonable excuse disobeying any summons, requisition or lawful written order issued under the provisions of this Act or wilfully does not furnish any information required from him by a person authorised in this behalf under the provisions of this Act, shall be punishble with fine which may extend to two hundred rupees.

(5) Any employer, who, without sufficient cause, fails to deduct or fails to pay to a society the amount deducted by him under sub-section (2)

of section 54 within a period of seven days from the date on which such deduction is made shall be punishable with fine which may extend to five hundred rupees and in the case of a continuing default with a further fine of Rs. 25 for each day on which the offence continues after conviction thereof.

(6) If default is made in complying with provisions of section 28, sub section (1) of section 33, section 57, section 60, section 61, section 62, the society, and every officer or member of committee of the society who is default shall be punishable with fine which may extend to two hundred rupees.

(7) If any person —

(i) after ceasing to be a member under sub-section (2) of section 21 acts as a member; or

(ii) exercises the rights of member in contravention of the provisions of section 25 shall be punishable with fine which may extend to two hundred rupees.

(8) If any person collecting the share money for a society in formation does not deposit the same in the State Co-operative Bank witnin fourteen days of its receipt, he shall be punishable with fine which may extend to five hundred rupees.

(9) If any person collecting the share money for a society in formation makes use of the funds so raised for conducting any trade or business in the name of the society to be registered or otherwise, he shall be punishable with fine which may extend to five hundred rupees.

(10) If any officer or member of a society misappropriates or unauthorisedly or illegally keeps any money belonging to that society he shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Offences by companies

102. Where an offence under sub-section (1) or sub-section (4) of section 101 has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company , as well as the company, shall be deemed to be guilty or the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this section shall render any such person liable to any punishment provided in the aforesaid sub-section he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence .

Provided further that if it is proved that the offence has been committed by the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company , such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation — For the purposes of this section —

(a) "company" means a body corporate, and includes a firm or other association of individuals; and

(b) "director" in relation to firm means a partner of the firm.

Cognizance of Offences

103. (1) No court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act.

(2) No prosecution shall be instituted under this Act without the previous sanction of the Registrar and such sanction shall not be given —

(i) without giving to the person concerned an opportunity to represent his case;

(ii) if the Registrar is satisfied that the person concerned acted in good faith.

Chapter XV

Miscellaneous

Address of a society

104. Every society shall have an address registered in accordance with the rules to which all notices and communications may be sent and shall send to the Registrar notice of any change thereof within thirty days of the change.

Copy of the Act, rules and bye-laws to be open to inspection

105. Every society shall keep a copy of this Act, the rules and its bye-laws open to inspection free of charge at all reasonable times at the registered address of the society.

Orders to be pronounced

106. Every order, decision or award made or given by the Registrar, or any officer or other person or a liquidator, under this Act, shall be pronounced on the day on which the case is finally heard or on some future day of which due notice shall be given to the parties.

Procedure for settlement of disputes and power of the Registrar or an y other person to whom a dispute is referred or an appeal is made for decision

107. (1) The Registrar or any other person to whom a dispute is referred for decision or an appeal is made against any order or decision made under this Act, shall hear the dispute or the appeal in the manner prescribed, and shall have power to summon and enforce attendance of witnesses including the parties interested or any of them and to compel them give evidence on oath, affirmation or affidavit, and to compel the production of documents by the same means and as far as possible in the same manner, as is provided at in the case of a civil court by the Code of Civil Procedure, 1908

(2) Except with the permission of the Registrar or any other person deciding a dispute, as the case may be, no party shall be represented at the hearing of a dispute by a legal practitioner.

5 of 1908

(3) (a) If the Registrar or any other person to whom a dispute is referred is satisfied that a person, whether he be a member of the society or not, has acquired any interest in the property of a person who is a party to a dispute he may order that the person who has acquired the interest in the property may join as a party to the dispute; and any decision, order or award that may be passed by the Registrar or his nominee or any other person shall be binding on the party so joined, in the same manner as if he were an original party to the dispute.

(b) Where a dispute has been instituted in the name of a wrong person, or where all the defendants have not been included, the Registrar or any other person to whom a dispute is referred for decision under section 72 may at any stage of the hearing of the dispute, if satisfied that the mistake was bonafide, order substitution of parties upon such terms as he may think just.

(c) The Registrar or any other person to whom a dispute is referred for decision under section 72, may at any stage of the proceedings, either upon or without the application of any party, and on such terms as may appear to the Registrar or any other person deciding a dispute, as the case may be, to be just, order the removal of the name of any party improperly included in the dispute and substitution of the name of any person who ought to have been included in the dispute or whose presence before the Registrar, or any other person deciding the dispute, as the case may be, may be necessary for effectually and completely adjudicating upon and settling all the questions involved in the dispute.

(d) Any person who is a party to the dispute and entitled to more than one relief in respect of the same cause of action may claim all or any or any of such reliefs; but if he omits to claim for all such reliefs, he shall not foward a claim for any relief so omitted, except with the leave of the Registrar or any other person to whom a dispute is referred for decision.

Powers of civil court

108. (1) In exercisiong the function conferred by or under this Act, the Government , the Registrar, the arbitrator or any other person deciding a dispute and the liquidator or an auditor of a society shall have all the powers of a civil court, while trying a suit, under the Code of Civil Procedure, 1908, in respect of the following matters namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath

(b) requiring the disovery and production of any document;

(c) proof of facts by affidavits; and

(d) issuing commissions for examination of witness.

(2) In the case of any affidavit, any officer appointed by the Government, the Registrar, the arbitrator or any other person deciding a dispute or the liquidator, or the auditor as the case may be, may administer the oath to the deponent.

Bar of Jurisdiction of courts

109. (1) Save as provided in this Act, no civil or revenue court shall have any jurisdiction in respect of -

(a) the registration of a society or bye-laws or of an amendment of a bye-laws;

(b) the removal of a committee;

(c) any dispute required under section 72 to be referred to the Registrar; or order for payment of moneys under section 85.

(2) While a society is being wound up, no suit or other legal proceeding relating to the business of such society shall be proceeced with, or instituted against the liquidator as such or against the society or any member thereof, except by leave of the Registrar and subject to such terms as he may impose.

(3) Save as provided in this Act, no order decision or award made under this Act shall be questioned in any court or on any ground whatsoever.

Application of Limitation Act

36 of 1963

110. The provisions of sections 4, 5, 12 and 14 of the Limitation Act, 1963 shall be applicable to the filling of any appeal or application for revision under this Act.